



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

March 29, 1939

Mrs. Faye Stewart, President
State Board of Hairdressers & Cosmetologists
Austin, Texas

Dear Mrs. Stewart:

Opinion No. O-494
Re: Issuance of a license to a
person who is a "Wasserman
Fast".

Your request for an opinion as to
whether it would be permissible for you to issue
a license to a person classed as a Wasserman Fast,
has been received by this department.

Your attention is called to Article 734b,
Section 10(b), which reads as follows:

"All applications for examination
and for license shall be accompanied by
a health certificate by a regularly li-
censed doctor of medicine, showing the
applicant to be free from any contagious
or infectious diseases as determined by
a general examination and Wasserman
blood test."

The above section requires that the appli-
cant present a certificate from a regular licensed
physician showing him or her to be free from any
contagious or infectious diseases as determined
by a general examination and a Wasserman blood
test. We interpret this requirement to lay par-
ticular stress upon the applicant being free of
any contagious or infectious diseases as determin-
ed in the manner stated. The letter enclosed
from the physician states that the woman will
always show positive to a Wasserman test. The

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thought occurs to us that after the license was issued, if you could issue a license upon these facts, that this applicant might discontinue treatment and the disease might then become contagious or infectious. We have no doubt but that the Legislature sought to prevent such a person from practicing under Article 734b.

We think under the facts given in the letter from the physician you would have no authority to issue a license to the applicant. However, if this physician will furnish you with a certificate specifically stating that your applicant is free from any contagious or infectious diseases as determined by a general examination and the Wasserman blood test, subsection(b) of Section 10 authorizes you to issue the applicant a license. You have no authority to rely on a physician's statement ... that in his opinion the applicant will not transmit the disease, for in our opinion that does not meet the requirement of our statute.

It is our opinion that you do not have authority to issue a license to any person upon the statement by a physician that the applicant is a Wasserman Fast, but that you are bound to follow strictly the requirement of subsection (b) of Section 10 of Article 734b.

Yours very truly

ATTORNEY GENERAL OF TEXAS

MH:ob

By

Morris Hodges
Morris Hodges
Assistant

APPROVED:

[Signature]
FIRST ASSISTANT ATTORNEY GENERAL *myh*